

AG Contract No.: KR03-1033TRN
ADOT ECS File: JPA 03-078
Project No. HRF- BUL-0-786
TRACS No HF086 01C & 02C
Section: Lakeside Drive, Seafair Drive,
Riverview Drive
HURF Exchange Program

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND THE CITY OF BULLHEAD

THIS AGREEMENT is entered into 3rd November, 2003, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF BULLHEAD acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The State has approved the exchange of \$364,500.00 Highway User Revenue Funds (HURF) in Fiscal Year 2003 to the City for the construction of improvements to Lakeside Drive, Seafair Drive, and Riverview Drive, and such funds will be repaid to the State by withholding from the Western Arizona Council of Governments (WACOG) federal funds and the obligation authority for federal funds in the amount of \$388,666.76.00 in Fiscal Year 2003.

4. The State has approved the exchange of \$356,400.00 Highway User Revenue Funds (HURF) in Fiscal Year 2004 to the City for the construction of improvements to Lakeside Drive, Seafair Drive, and Riverview Drive, and such funds will be repaid to the State by withholding from the Western Arizona Council of Governments (WACOG) federal funds and the obligation authority for federal funds in the amount of \$380,092.00 in Fiscal Year 2004.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO. 26432
Filed with the Secretary of State
Date Filed: 11/03/03
Janice K. Brewer
Secretary of State
By: Dan D. Greenwald

II. SCOPE OF WORK**1. The City will.**

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction

b. Call for bids and award one or more construction contracts for the project. Administer same, and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project construction cost, at the start of construction

d. Invoice the State for thirty percent of the project construction cost, at the sixty percent construction completion stage, and for thirty percent of the project cost at the ninety percent project construction completion stages

e. Upon completion, approve and accept the project as complete and provide maintenance. Provide ADOT with a letter documenting the notice of the approval and acceptance of the project

f. Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage after the City, WACOG, and the State (ADOT) representatives have completed final project review

2. The State will:

a. Within 30 days after receipt and approval of an invoice, pay for the project cost at the thirty percent project completion state, and for thirty percent of the project cost at the sixty percent project completion state, and for thirty percent of the project cost at the ninety percent project completion state, and pay 10 percent upon completion of construction

b. Withhold from WACOG, federal funds and the obligation authority of federal funds \$388,666 76 in Fiscal Year 2003 for construction

c. Withhold from WACOG, federal funds and the obligation authority of federal funds \$380,092 72 in Fiscal Year 2004 for construction.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees

2. Non-Discrimination. The contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws, rules and regulations, including the Americans With Disabilities Act. The contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.

3. Non-Availability of Funds. Every payment obligation of State and the City under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State and the City at the end of the period for which the funds are available. No liability shall accrue to the State and the City in the event this provision is exercised, and the State and the City shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

4. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

5. This agreement shall become effective upon filing with the Secretary of State.

6. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

7. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

8. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007


City of Bullhead
City Manager
1255 Marina Boulevard
Bullhead, AZ 86442-5733


8. In Accordance with Arizona Revised Statutes Section 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF BULLHEAD

STATE OF ARIZONA
Department of Transportation

By 
DIANE VICK
Mayor

By 
DALE BUSKIRK, Division Director
Transportation Planning Division

ATTEST

By 
DIANE HEILMANN
City Clerk

RESOLUTION NO. 2003R-078

**A RESOLUTION OF THE MAYOR AND CITY
COUNCIL OF THE CITY OF BULLHEAD CITY,
ARIZONA.**

WHEREAS, The City of Bullhead City is empowered by Arizona Revised Statutes, Section 11-952 to enter into an Intergovernmental Agreement with the State of Arizona, Department of Transportation; and

WHEREAS, the State has approved pursuant to ARS 28-6993.G the exchange of \$364,500.00 Highway User Revenue Funds (HURF) in the Fiscal Year 2003 and \$356,400.00 in Fiscal Year 2004 and such funds will be repaid to the State by withholding from the Western Arizona Council of Governments (WACOG) federal funds and the obligation authority for federal funds in the amount of \$388,666.76 in Fiscal Year 2003 and in the amount of \$380,092.00 in Fiscal Year 2004 to obtain and provide such funds and to enter into this agreement

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the City of Bullhead City, Arizona, hereby authorizes in consideration of the mutual agreements expressed herein the submittal of an Intergovernmental Agreement between the State of Arizona Department of Transportation, and the City of Bullhead City and receipt of funds from the Arizona Department of Transportation for the construction of improvements to Lakeside Drive, from Seafair Drive, to Riverview Drive in the amount of \$720,900.00.

PASSED AND ADOPTED by the Mayor and City Council of the City of Bullhead City, Arizona, this 7th day of October 2003.



Diane Rae Vick, Mayor

10/8/03

ATTEST:



Diane Heilmann, CMC
City Clerk

APPROVED AS TO FORM:



Ronald C. Ramsey, City Attorney

CERTIFICATION

THE FOREGOING INSTRUMENT IS A FULL, TRUE AND CORRECT COPY
OF THE RECORD ON FILE IN THIS OFFICE.

DATED: 10/10/03
ATTEST: C.E. Bean, Deputy City Clerk
OF THE CITY OF BULLHEAD CITY, AZ



APPROVAL OF THE CITY OF BULLHEAD ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF BULLHEAD, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 25th day of Sept, 2003.



City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR03-1033TRN (JPA 03-078), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED October 27, 2003.

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan E. Davis".

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/ss

att.